S.B.CIVIL WRIT PETITION NO.3741/2006

Utpal Shrimal & Ors.
v.
State of Rajasthan & Ors.

Date of Order :: 7th December, 2006

HON'BLE MR.JUSTICE GOVIND MATHUR

Mr. Shambhoo Singh, for the petitioners.

....

The Full Bench of this Court in the case of Deepak Suthar v. State of Rajasthan & Ors., reported in 1999(2) RLR 692, held that no bonus marks while making appointments to the post of Teacher could b e granted on basis of residence as the same is in violation of Articles 14 and 16 of the Constitution of India. The Division Bench of this Court while relying upon the judgment referred above in the case of Kailash Chand Sharma v. State of Rajasthan & Ors. also declared grant of such bonus marks illegal while making appointments to the post of Teacher in the schools run by Panchayat Raj Institutions. The validity of Full Bench judgment of this Court in the case of Deepak Suthar (supra) was examined by Hon'ble Supreme Court in the case of Kailash Chand Sharma v. State of Rajasthan & Ors., reported in (2002)6 SCC 562, and while affirming the same held that it is having prospective application. Hon'ble Supreme Court also ordered for considering afresh the claim of the writ petitioners vis-a-vis the candidates appointed on or after 18.11.1999 or those in the select list who

are yet to be appointed. A direction further was given to appoint the writ petitioners if they stand at higher pedestal in order of merit after excluding the bonus marks. The aforesaid direction was made applicable only to those writ petitioners who moved the High Court for redressal of their grievances. The State Government to execute the directions given by Hon'ble Supreme Court in the case of Kailash Chand Sharma (supra) issued certain circulars those are placed on record as Anxs.2 and 3.

The grievance of the petitioners is that they also applied for appointment as Teacher Gr.III in pursuant to the notification dated 13.6.1998 and if, their candidature be also considered in accordance with the directions given by Hon'ble Supreme Court in the case of Kailash Chand Sharma (supra) they stand at superior merit than number of persons to whom appointments have already given but the respondents refused to consider their candidature as they did not file writ petition before the High Court prior to disposal of the case of Kailash Chand Sharma (supra).

Heard counsel for the petitioners.

Hon'ble Supreme Court while disposing of the issue with regard to grant of bonus marks on basis of residence in quite unambiguous terms made it clear that the directions are prospective in nature and

shall be having application only for the persons who have approached the High Court for redressal of their grievances pertaining to the appointments made on or after 18.11.1999. The petitioner before disposal of the case of Kailash Chand Sharma (supra) by Hon'ble Supreme Court never approached the High Court, therefore, the respondents rightly denied to consider candidature of the petitioners for appointments as Teacher Gr.III while executing the directions given by Hon'ble Supreme Court.

Accordingly, this petition for writ is dismissed.

(GOVIND MATHUR),J.

kkm/ps.